

AN ACT

RELATING TO FIREARMS; ENACTING THE CONCEALED HANDGUN CARRY ACT; REQUIRING A LICENSE TO CARRY A CONCEALED LOADED HANDGUN; CREATING A FUND; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- Sections 1 through 12 of this act may be cited as the "Concealed Handgun Carry Act".

Section 2. DEFINITIONS. -- As used in the Concealed Handgun Carry Act:

A. "applicant" means a person seeking a license to carry a concealed handgun;

B. "caliber" means the diameter of the bore of the handgun;

C. "category" means whether a handgun is semi-automatic or not semi-automatic;

D. "concealed handgun" means a loaded handgun that is not visible to the ordinary observations of a reasonable person;

E. "department" means the department of public safety;

F. "handgun" means a firearm that will, is designed to or may readily be converted to expel a projectile by the action of an explosion and the barrel length of which,

not including a revolving, detachable or magazine breech, does not exceed twelve inches; and

G. "licensee" means a person holding a valid concealed handgun license issued to him by the department.

Section 3. DATE OF LICENSURE--PERIOD OF LICENSURE. -- Effective January 1, 2002, the department is authorized to issue concealed handgun licenses to qualified applicants. Concealed handgun licenses shall be valid for a period of one year from the date of issuance, unless the license is suspended or revoked.

Section 4. APPLICANT QUALIFICATIONS. --

A. The department shall issue a concealed handgun license if the applicant:

- (1) is a citizen of the United States;
- (2) is a resident of New Mexico or is a member of the armed forces whose permanent duty station is located in New Mexico or is a dependent of such a member;
- (3) is twenty-one years of age or older;
- (4) is not a fugitive from justice;
- (5) has not been convicted of a felony in New Mexico or any other state or pursuant to the laws of the United States or any other jurisdiction;
- (6) is not currently under indictment for a felony criminal offense in New Mexico or any other state or pursuant to the laws of the United States or any other

jurisdiction;

(7) is not otherwise prohibited by federal law or the law of any other jurisdiction from purchasing or possessing a firearm;

(8) has not been adjudicated mentally incompetent or committed to a mental institution;

(9) is not addicted to alcohol or controlled substances; and

(10) has satisfactorily completed a firearms training course approved by the department for the category and caliber of handgun that the applicant wants to be licensed to carry as a concealed handgun.

B. The department shall deny a concealed handgun license if the applicant has received a conditional discharge, a diversion or a deferment or has been convicted of, pled guilty to or entered a plea of nolo contendere to a misdemeanor offense involving a crime of violence or if the applicant has been convicted of a misdemeanor offense involving driving while under the influence of intoxicating liquor or drugs, the possession or abuse of a controlled substance or assault, battery or battery against a household member.

Section 5. APPLICATION FORM--SCREENING OF APPLICANTS--  
FEE--LIMITATIONS ON LIABILITY.--

A. Effective July 1, 2001, applications for

concealed handgun licenses shall be made readily available at locations designated by the department. Applications for concealed handgun licenses shall be completed, under penalty of perjury, on a form designed and provided by the department and shall include the following:

(1) the applicant's name, current address, date of birth, place of birth, social security number, height, weight, gender, hair color, eye color and driver's license number or other state-issued identification number;

(2) a statement that the applicant is aware of, understands and is in compliance with the requirements for licensure set forth in the Concealed Handgun Carry Act;

(3) a statement that the applicant has been furnished a copy of the Concealed Handgun Carry Act and is knowledgeable of its provisions; and

(4) a conspicuous warning that the application form is executed under penalty of perjury and that a materially false answer or the submission of a materially false document to the department may result in denial or revocation of a concealed handgun license and may subject the applicant to criminal prosecution for perjury as provided in Section 30-25-1 NMSA 1978.

B. The applicant shall submit the following items to the department:

(1) a completed application form;

(2) a nonrefundable application fee in an amount not to exceed one hundred dollars (\$100);

(3) two full sets of fingerprints;

(4) a certified copy of a certificate of completion for a firearms training course approved by the department;

(5) two color photographs of the applicant;

(6) a certified copy of a birth certificate or proof of United States citizenship, if the applicant was not born in the United States; and

(7) proof of residency in New Mexico.

C. A law enforcement agency may fingerprint an applicant and may charge a reasonable fee.

D. Upon receipt of the items listed in Subsection B of this section, the department shall make a reasonable effort to determine if the applicant is qualified to receive a concealed handgun license. The department shall conduct an appropriate check of available records and shall forward the applicant's fingerprints to the federal bureau of investigation for a national criminal background check. The department shall comply with the license issuing requirements set forth in Section 6 of the Concealed Handgun Carry Act. However, the department shall suspend or revoke a license if the department receives information that would disqualify an applicant from receiving a concealed handgun license after

the sixty-day time period has elapsed.

**Section 6. DEPARTMENT RESPONSE TO APPLICATION--RIGHT TO APPEAL--LICENSE RENEWAL--SUSPENSION OR REVOCATION OF LICENSE.--**

**A. Pursuant to rules adopted by the department, the department shall:**

**(1) issue a concealed handgun license to an applicant; or**

**(2) deny the application on the grounds that the applicant failed to qualify for a concealed handgun license pursuant to the provisions of the Concealed Handgun Carry Act.**

**B. Information relating to an applicant or to a licensee received by the department or any other law enforcement agency is confidential and exempt from public disclosure unless an order to disclose information is issued by a court of competent jurisdiction. The information shall be made available by the department to a state or local law enforcement agency upon request by the agency.**

**C. A concealed handgun license issued by the department shall include the following:**

**(1) a color photograph of the licensee;**

**(2) the licensee's name, address and date of birth;**

**(3) the expiration date of the concealed**

handgun license; and

(4) the category and caliber of the handgun that the licensee is licensed to carry.

D. A licensee shall notify the department within thirty days regarding a change of his name or permanent address. A licensee shall notify the department within thirty days if the licensee loses his concealed handgun license or it is stolen or destroyed.

E. If a concealed handgun license is reported lost, stolen or destroyed, the license is invalid and the licensee may obtain a duplicate license by furnishing the department a notarized statement that the original license was lost, stolen or destroyed and paying a reasonable fee.

F. A licensee may renew his concealed handgun license by submitting to the department a completed renewal form, under penalty of perjury, designed and provided by the department, accompanied by a payment of a fifty-dollar (\$50.00) renewal fee. A licensee who renews his concealed handgun license may renew his license by taking a four-hour refresher firearms training course and paying the fifty-dollar (\$50.00) renewal fee to the department. The department shall conduct a national criminal records check of the licensee seeking to renew his license. A concealed handgun license shall not be renewed more than sixty days after it has expired. A licensee who fails to renew his

concealed handgun license within sixty days after it has expired may apply for a new concealed handgun license pursuant to the provisions of the Concealed Handgun Carry Act.

G. The department shall suspend or revoke a concealed handgun license if:

(1) the licensee provided the department with false information on his application form or renewal form for a concealed handgun license;

(2) the licensee did not satisfy the criteria for issuance of a concealed handgun license at the time the license was issued to him; or

(3) subsequent to receiving a concealed handgun license, the licensee violates a provision of the Concealed Handgun Carry Act.

Section 7. DEMONSTRATION OF ABILITY AND KNOWLEDGE--  
COURSE REQUIREMENT--PROPRIETARY INTEREST--EXEMPTIONS.--

A. The department shall prepare and publish minimum standards for approved firearms training courses that teach proficiency with handguns. A firearms training course shall include classroom instruction and range instruction and an actual demonstration by the applicant of his ability to safely use a handgun. An applicant shall not be licensed unless he demonstrates, at a minimum, his ability to use a handgun of .32 caliber. An approved firearms training course



shall be a course that is certified or sponsored by a federal or state law enforcement agency, a college, a firearms training school or a nationally recognized organization approved by the department that customarily offers firearms training. The firearms training course shall be not less than fifteen hours in length and shall provide instruction regarding:

- (1) knowledge of and safe handling of single- and double-action revolvers and semiautomatic handguns;
- (2) safe storage of handguns and child safety;
- (3) safe handgun shooting fundamentals;
- (4) live shooting of a handgun on a firing range;
- (5) identification of ways to develop and maintain handgun shooting skills;
- (6) federal, state and local criminal and civil laws pertaining to the purchase, ownership, transportation, use and possession of handguns;
- (7) techniques for avoiding a criminal attack and how to control a violent confrontation; and
- (8) techniques for nonviolent dispute resolution.

B. Every instructor of an approved firearms

training course shall annually file a copy of the course description and proof of certification with the department.

Section 8. LIMITATION ON LICENSE. --Nothing in the Concealed Handgun Carry Act shall be construed as allowing a licensee in possession of a valid concealed handgun license to carry a concealed handgun into or on premises where to do so would be in violation of state or federal law.

Section 9. POSSESSION OF LICENSE. --A licensee shall have his concealed handgun license in his possession at all times while carrying a concealed handgun.

Section 10. VALIDITY OF LICENSE ON TRIBAL LAND. --A concealed handgun license shall not be valid on tribal land, unless authorized by the governing body of an Indian nation, tribe or pueblo.

Section 11. RULES--DEPARTMENT TO ADMINISTER. --The department shall promulgate rules necessary to implement the provisions of the Concealed Handgun Carry Act. The rules shall include:

A. grounds for the suspension and revocation of concealed handgun licenses issued pursuant to the provisions of the Concealed Handgun Carry Act;

B. provision of authority for a law enforcement officer to confiscate a concealed handgun license when a licensee violates the provisions of the Concealed Handgun Carry Act;

C. provision of authority for a private property owner to disallow the carrying of a concealed handgun on his property;

D. provision of authority for a county or municipality to disallow the carrying of a concealed handgun within the limits of the county or municipality;

E. provision of authority for the transfer of a concealed handgun license issued by another state; and

F. creation of a sequential numbering system for all concealed handgun licenses issued by the department and display of numbers on issued concealed handgun licenses.

Section 12. FUND CREATED. --

A. The "concealed handgun carry fund" is created in the state treasury.

B. All money received by the department pursuant to the provisions of the Concealed Handgun Carry Act shall be deposited by the state treasurer for credit to the concealed handgun carry fund. The state treasurer shall invest the fund as all other state funds are invested, and income from the investment of the fund shall be credited to the fund. Balances remaining at the end of any fiscal year shall not revert to the general fund and may be used to maintain the state's criminal history database.

C. Money in the concealed handgun carry fund is appropriated to the department to carry out the provisions of

the Concealed Handgun Carry Act.

Section 13. Section 30-7-2 NMSA 1978 (being Laws 1963, Chapter 303, Section 7-2, as amended) is amended to read:

"30-7-2. UNLAWFUL CARRYING OF A DEADLY WEAPON.--

A. Unlawful carrying of a deadly weapon consists of carrying a concealed loaded firearm or any other type of deadly weapon anywhere, except in the following cases:

(1) in the person's residence or on real property belonging to him as owner, lessee, tenant or licensee;

(2) in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property;

(3) by a peace officer in accordance with the policies of his law enforcement agency who is certified pursuant to the Law Enforcement Training Act;

(4) by a peace officer in accordance with the policies of his law enforcement agency who is employed on a temporary basis by that agency and who has successfully completed a course of firearms instruction prescribed by the New Mexico law enforcement academy or provided by a certified firearms instructor who is employed on a permanent basis by a law enforcement agency; or

(5) by a person in possession of a valid concealed handgun license issued to him by the department of

public safety pursuant to the provisions of the Concealed Handgun Carry Act.

B. Nothing in this section shall be construed to prevent the carrying of any unloaded firearm.

C. Whoever commits unlawful carrying of a deadly weapon is guilty of a petty misdemeanor."

Section 14. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. \_\_\_\_\_